plaintiff, if entitled to recover at all, may recover on the same grounds damages measured by the same rule as if the action had been brought by decedent in his lifetime.

Where a parent sues for damages resulting from the death of a minor child, evidence of the value of the child's services until it attained its majority, is admissible, though the recovery is not necessarily limited to the value of such services. *Pierce v. Conners*, 20 Col. 178. Where damages are claimed for the death of a child incapable of earning anything, or rendering service of any value, the value of its probable future service to the parent during its minority is a matter of conjecture, and may be determined by the jury without the testimony of witnesses. *Little Rock Ry. Co. v. Barker and Wife*, 39 Ark. 491. Evidence that the father required the services of his little child in order to maintain his household, was competent upon the question of damages. In this case the father recovered damages for death of seven-year old daughter. *Pressman v. Mooney*, 5 App. Hun., 121 (N. Y.).

DIVORCE—DEFENSE—IMPLIED CONNIVANCE.—DELANEY V. DELANEY, 65 ALT. 217 (N. J.).—The plaintiff introduced his friend to the defendant and in the friend's presence charged her with adultery; subsequently by his acts and omissions, the plaintiff exposed his wife to the temptation of adultery with said friend and then alleging adultery to have occurred brought suit for divorce. *Held*, For a single act of adultery by a wife, a divorce will not be granted to a husband, who either connived at such act, or, in legal contemplation, consented to it. Gummere C. J., and Pitney, Swayze, Reed, Vroom and Green, J.J., *dissenting*.

The absence of due precaution may amount to criminal negligence on the part of the husband where the wife previous to marriage was seduced by her husband, and after marriage warnings in regard to the wife's conduct, calculated to excite his vigilance were given and no steps taken by him in consequence. *Dillon v. Dillon*, 3 Curt. Eccl. 86. A wife may plead the fact of cohabitation when single, with the husband, in order to show a want of proper vigilance on his part over her subsequent moral conduct. *Graves v. Graves*, 3 Curt. Eccl. 235. Where husband and wife by mutual consent separated after marriage the husband was deemed guilty of willful neglect conducing to his wife's adultery. *Hawkins v. Hawkins*, 54 L. J. P. and Adm. 94. A husband who seduces his wife before marriage, and after marriage sees her in a situation of temptation and does nothing to rescue her, and she yields, will be understood as having consented to her adultery. *Cane v. Cane*, 39 N. J. Eq. 140. If a husband knows of his wife's weakness, he is called upon to exercise peculiar vigilance and if he sees what a reasonable man could not see without alarm, and makes no effort to avert the danger, he must be supposed to see and mean the result. *Hedden v. Hedden*, 21 N. J. Eq. 61.

DIVORCE—DESERTION.—FOOTE V. FOOTE, 65 ATL. 205 (N. J.). Where a husband separated from his wife with her consent which was later withdrawn, and he made no proffers to resume marital relations. *Held*, to constitute desertion it is not necessary that the intent should have been formed at the time the party left home, but it is sufficient if he afterwards determines to desert, and persists in such determination—Pitney, Swayge, and Green, JJ., *dissenting*.

Separation and intention to abandon must concur in order to constitute a ground for divorce. But they need not be synchronous. *Pinkard v. Pink-*

ard, 14 Tex. 356; *Reed v. Reed*, Wright 224 (Ohio). Desertion will begin at the time when a renewal of marital cohabitation is sought by the complainant. *Hankinson v. Hankinson*, 33 N. J. 66. But there are circumstances in which the law will justify a refusal to return. *Porritt v. Porritt*, 18 Mich. 420. The guilty intent is manifested when, without cause or consent, either party separates from the other, *Ingersoll v. Ingersoll*, 49 Pa. 249; and this has been held notwithstanding the husband contributed to his wife's support. *Magrath v. Magrath*, 103 Mass. 577. The conduct of the defendant may justify a finding of willful, continued, and obstinate desertion. *Carroll v. Carroll*, 68 N. J. Eq. 727.

EVIDENCE—JUDICIAL NOTICE—SCIENTIFIC FACTS.—MACOMER V. STATE BOARD OF HEALTH, 65 ATL. 263 (R. I.).—In an action to revoke a certificate to practice medicine evidence was introduced that the practitioner had advertised to produce certain results and cure of diseases with alleged electrical devices. *Held*, That the court could not take judicial notice that such claims were false but was bound to form its judgment on matters solely in evidence. Blodgett, J. *dissenting*.

The court is bound to take judicial notice of all matters of art and science which because of their public notoriety have been rendered axiomatic, *Bryan v. Beckley*, 12 Am. Dec. 216 (Ky.); even though the court may be actually uninformed regarding them. *Brown v. Piper*, 91 U. S. 37. But this power is exercised with great care and caution and every reasonable doubt resolved promptly in the negative. *St. Louis Gas Co. v. Am. Fire Ins. Co.*, 33 Mo. App. 348.

EVIDENCE—PAROL EVIDENCE EXPLAINING WRITINGS.—LAMBERT HOISTING ENGINE CO. V. CARMODY, 65 ATL. 141 (CT.).—*Held*, that on an issue as to whether a written contract was one for the sale of certain machinery or a lease thereof it was proper to admit evidence of negotiations leading up to the contract, for the purpose of determining the intent and purpose of the parties.

Parol evidence of the practical interpretation which the parties have by their conduct given to a written instrument is admissible in determining the intent and purpose of the contract. *St. Louis Gas Light Co. v. City of St. Louis*, 46 Mo. 121; *Emery v. Webster*, 42 Me. 204. And the statements and conduct leading up to the contract, *Rhodes v. Cleveland Rolling-Mill Co.*, 17 Fed. 426, as well as subsequent to it, *Potter v. Phoenix Ins. Co.*, 63 Fed. 382, and, in fact, where the direct evidence is contradictory as to the exact terms of the instrument, evidence of any circumstance bearing upon the point in controversy may be introduced to show the understanding of the terms by the parties. *Houghton v. Clough, et al.*, 30 Vt. 312. But the understanding which one party had, if not communicated to the other party, is not admissible, *Taft v. Dickinson*, 88 Mass. 553. The language mutually chosen to express the intention of their minds can be merely explained by parol evidence—"The question is not what did the parties mean to say, but what is the meaning of what they have said." *Bartholomew v. Muzzy*, 61 Conn., 387.

HIGHWAYS—PERSON CROSSING FROM STREET CAR TO CURB—CONTRIBUTORY NEGLIGENCE—GARSIDE V. N. Y. TRANSP. CO., 146 FED. 588 (N. Y.).—Plaintiff alighted from a street car, and after taking two or three steps was struck and injured by the defendant's automobile. *Held*, that the plaintiff was not bound as a matter of law to look in both directions along the street before starting to cross to the curb, but the question, whether the failure to so look, constitutes contributory negligence is one of fact for the jury.